

AMENDED IN ASSEMBLY MARCH 25, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1247**

**Introduced by Assembly Member Aghazarian**

February 21, 2003

---

An act to amend Section 25247 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1247, as amended, Aghazarian. Hazardous waste facility: postclosure.

(1) Existing law requires the owner or operator of a hazardous waste facility to submit a hazardous waste facility closure and postclosure plan to the Department of Toxic Substances Control and to the California regional water quality control board for the region in which the facility is located. The department is required to review the plan and to approve the plan if the department makes specified findings. A violation of the hazardous waste control law, including any requirements issued or adopted pursuant to the hazardous waste control law, is a crime.

~~This bill would require the department to allow the public a meaningful opportunity to comment upon a proposed hazardous waste facility closure and postclosure plan before the department initially approves the plan and before the department makes any significant changes to an approved plan.~~

~~This bill would authorize the department to approve the~~ *impose the requirements of a hazardous waste facility closure and postclosure plans plan* by issuing a postclosure permit, issuing an enforceable order, or

entering into an enforceable agreement. The bill would require the *postclosure plan imposed pursuant to an enforcement order or agreement to impose all applicable requirements and assure to be approved in compliance with the California Environmental Quality Act at the time the proposed remedial action or plan is approved for the facility and would require the department, before approving or modifying a hazardous waste facility postclosure plan, to provide meaningful opportunity for public comment.* The bill would require the owner or operator who submits the plan for approval and who is issued an enforceable order or enters into an enforceable agreement to pay specified fees to reimburse the department for its costs.

*The bill would authorize the department to take specified actions, in addition to other remedies available under state law, to enforce a postclosure plan imposed in the form of an enforcement order or enforcement agreement.*

Because a violation of the bill's requirements would be a crime, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 25247 of the Health and Safety Code is  
 2 amended to read:  
 3 25247. (a) The department shall review each plan submitted  
 4 pursuant to Section 25246 and shall approve the plan ~~by issuing a~~  
 5 ~~postclosure permit, issuing an enforceable order, or entering into~~  
 6 ~~an enforceable agreement~~, if it finds that the plan complies with the  
 7 regulations adopted by the department and complies with all other  
 8 applicable state and federal regulations.  
 9 (b) The department shall not approve the plan until ~~the~~  
 10 ~~department complies with subdivision (d) and at least one of the~~  
 11 *at least one of the* following occurs:

1 (1) The plan has been approved pursuant to Section 13227 of  
2 the Water Code.

3 (2) Sixty days expire after the owner or operator of an interim  
4 status facility ~~complies with Section 25246 submits the plan to the~~  
5 *department*. If the department denies approval of a plan for an  
6 interim status facility, this 60-day period shall not begin until the  
7 owner or operator resubmits the ~~plan in compliance with Section~~  
8 ~~25246~~. *plan to the department*.

9 (3) The director finds that immediate approval of the plan is  
10 necessary to protect public health, safety, or the environment.

11 (c) Any action taken by the department pursuant to this section  
12 is subject to Section 25204.5.

13 ~~(d) The department shall allow the public a meaningful~~  
14 ~~opportunity to comment upon a proposed hazardous waste facility~~  
15 ~~closure and postclosure plan before the department initially~~  
16 ~~approves the plan and before the department makes any significant~~  
17 ~~changes to an approved hazardous waste facility closure and~~  
18 ~~postclosure plan.~~

19 ~~(e) (1) If the department approves a hazardous waste facility~~  
20 ~~closure and postclosure plan, the department may authorize the~~  
21 ~~owner or operator of a facility to obtain an enforcement order or~~  
22 ~~enter into an enforceable agreement, in lieu of obtaining a~~  
23 ~~postclosure permit. The enforcement order or agreement shall~~  
24 ~~impose all applicable requirements and shall assure compliance~~  
25 ~~with the California Environmental Quality Act (Division 13~~  
26 ~~(commencing with Section 21000) of the Public Resources Code)~~  
27 ~~at the time the proposed remedial action plan or closure and~~  
28 ~~postclosure plan is approved for the facility.~~

29 *(d) (1) To the extent consistent with the federal act, the*  
30 *department may impose the requirements of a hazardous waste*  
31 *facility postclosure plan on the owner or operator of a facility*  
32 *through the issuance of an enforcement order, entering into an*  
33 *enforceable agreement, or issuing a postclosure permit.*

34 *(A) A hazardous waste facility postclosure plan imposed*  
35 *pursuant to an enforcement order or enforceable agreement shall*  
36 *be approved in compliance with the California Environmental*  
37 *Quality Act (Division 13 commencing with Section 21000) of the*  
38 *Public Resources Code).*

39 *(B) Before the department initially approves or significantly*  
40 *modifies a hazardous waste facility postclosure plan pursuant to*

1 *this subdivision, the department shall provide a meaningful*  
2 *opportunity for public involvement, which, at a minimum, shall*  
3 *include public notice and an opportunity for public comment on*  
4 *the proposed action.*

5 (2) This subdivision does not limit or delay the authority of the  
6 department to order any action necessary at a facility to protect  
7 public health or safety.

8 (3) If the department ~~approves~~ *imposes* a hazardous waste  
9 facility ~~closure and postclosure plan in the form of an enforceable~~  
10 ~~order or agreement, in lieu of issuing a postclosure permit, the~~  
11 ~~owner or~~ *postclosure plan in the form of an enforcement order or*  
12 *enforceable agreement, in lieu of issuing or renewing a postclosure*  
13 *permit, the owner or operator who submits the plan for approval*  
14 *shall pay the same fee specified in subparagraph (F) of paragraph*  
15 *(1) of subdivision (d) of Section 25205.7, and upon*  
16 *commencement of the postclosure period, shall pay the fee*  
17 *required by paragraph (9) of subdivision (c) of Section 25205.4.*

18 (4) *In addition to any other remedy available under state law*  
19 *to enforce a postclosure plan imposed in the form of an*  
20 *enforcement order or enforcement agreement, the department may*  
21 *take any of the following actions:*

22 (A) *File an action to enjoin a threatened or continuing*  
23 *violation of a requirement of the enforcement order or agreement.*

24 (B) *Require compliance with requirements for corrective*  
25 *action or other emergency response measures that the department*  
26 *deems necessary to protect human health and the environment.*

27 (C) *Assess or file an action to recover civil penalties and fines*  
28 *for a violation of a requirement of an enforcement order or*  
29 *agreement.*

30 SEC. 2. No reimbursement is required by this act pursuant to  
31 Section 6 of Article XIII B of the California Constitution because  
32 the only costs that may be incurred by a local agency or school  
33 district will be incurred because this act creates a new crime or  
34 infraction, eliminates a crime or infraction, or changes the penalty  
35 for a crime or infraction, within the meaning of Section 17556 of  
36 the Government Code, or changes the definition of a crime within  
37 the meaning of Section 6 of Article XIII B of the California  
38 Constitution.